FILED

### IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

DEC 1 5 2004

CLERK, U.S. DISTRICT COURT WESTERN DISTRICT OF TEXAS

BY DEPUTY CLERK

SCOTT LOUIS PANETTI,
Petitioner

8

Case No. A-04-CA-042-SS

DOUG DRETKE, Director,
Texas Department of Criminal
Justice, Institutional Division,
Respondent.

### SEALED, EX PARTE MOTION FOR AUTHORIZATION OF ADDITIONAL FUNDS FOR EXPERTS

In its Order dated July 20, 2004, this Court authorized the Petitioner to retain an expert at the maximum rate of \$100.00 per hour and incur up to \$1,000.00 of expert services. This Court instructed the Petitioner to file a motion justifying why the Petitioner needed additional funds for expert services. This Court ordered the Petitioner to obtain and file with the Court an itemized accounting from the expert of what services were provided and the amount of time expended by the expert. A total of four experts testified for the Petitioner at the <u>Ford</u> bearing. In support of this motion for additional funds for expert services, the Petitioner shows as follows:

I.

Dr. Mary Alice Conroy was retained by the Petitioner since she resided in Huntsville, Texas and would not incur significant expenses in traveling to death row to examine the Petitioner for the Ford hearing. Dr. Conroy's accounting is attached to this motion as Exhibit A. Dr. Conroy incurred a total of \$2097.00 for her testimony, services, and expenses at her normal hourly rates. At a \$100.00 hourly rate, she incurred a total of \$2147.00 for her services and expenses. The Petitioner

respectfully requests that Dr. Conroy be reimbursed a total of \$2097.00 for her services and expenses.

In the alternative, the Petitioner respectfully requests that Dr. Conroy be paid the \$1000.00 authorized by this Court for expert services in this cause. Her address is on her bill at Exhibit A.

П.

Dr. Seth Silverman traveled to death row to examine the Petitioner for the Ford hearing and traveled to Austin, Texas and testified at the hearing, so the Court is aware of his services. Dr. Silverman's accounting is attached to this motion as Exhibit B. Dr. Silverman incurred a total of \$14,817.60 for his testimony, services, and expenses at his normal hourly rates. The Petitioner respectfully requests that Dr. Silverman be reimbursed by whatever amount this Court deems proper for his services in this cause.

Ш.

Dr. Susana Rosin traveled to death row to examine the Petitioner for the <u>Ford</u> hearing and traveled to Austin, Texas and testified at the hearing, so the Court is aware of her services. Dr. Rosin's accounting is attached to this motion as Exhibit C. Dr. Rosin incurred a total of \$7000.00 for her testimony, services, and expenses at her normal hourly rates. The Petitioner respectfully requests that Dr. Rosin be reimbursed by whatever amount this Court deems proper for her services in this cause.

IV.

Dr. Mark Cunningham reviewed records of the Petitioner and reports of the Respondent's experts for the <u>Ford</u> hearing and traveled to Austin, Texas and testified at the hearing, so the Court is aware of his services. Dr. Cunningham's accounting is attached to this motion as Exhibit D. Dr. Cunningham incurred a total of \$10,148.18 for his testimony, services, and expenses at his normal

hourly rates. The Petitioner respectfully requests that Dr. Cunningham be reimbursed by whatever amount this Court deems proper for his services in this cause.

WHEREFORE, PREMISES CONSIDERED, the Petitioner respectfully prays that this Court order a payment to Dr. Mary Alice Conroy in the amount of \$2097.00 or, in the alternative, in the amount of \$1000.00 for her services as the retained expert in this cause; and payments to Drs. Silverman, Rosin, and Cunningham in amounts deemed reasonable by this Court for their services in this cause.

Respectfully submit

Michael C. Gross

State/Bar No. 08534480

106/South St. Mary's Street, Suite 260

San Antonio, Texas 78205

**(**210) 354-1919

(210) 354-1920 (Fax)

Keith S. Hampton

1103 Nueces Street

Austin, Texas 78701

(512) 476-8484

(512) 476-0953 (Fax)

COUNSEL FOR THE PETITIONER, SCOTT PANETTI

#### CERTIFICATE OF SERVICE

This motion was not served upon counsel for Respondent, Tina J. Dettmer, because of its confidential nature and Counsel for the Petitioner's request that the motion be received and decided ex parte.

### IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

SCO	TT LOUIS PANETTÏ,		
	Petitioner	§ §	
Texa	IG DRETKE, Director, is Department of Criminal ice, Institutional Division, Respondent.	<i>\$\tau\$</i> \$\tau\$ \$\tau\$ \$\tau\$ \$\tau\$ \$\tau\$	Case No. A-04-CA-042-SS
	•	ORDER	
	The Sealed, Ex parte Motion for A	uthorization of A	dditional Funds for Experts is granted as
follo	ws:		
1.	Dr. Mary Alice Conroy is to be pa	id \$	for her services in this cause;
2.	Dr. Seth Silverman is to be paid \$		for his services in this cause;
3.	Dr. Susana Rosin is to be paid \$_		for her services in this cause; and
4.	Dr. Mark Cunningham is to be paid	d \$	for his services in this cause.
	SIGNED ON THIS day of		, 200
		JUE	OGE PRESIDING

# Mary Alice Conroy, Fn.D.

Diplomate in Forensic Psychology

American Board of Professional Psychology

#### FINANCIAL STATEMENT

Services: Execution Competence Evaluation

Re: Scott Panetti

For: Michael C. Gross

Attorney at Law

Dates: August 23-September 7, 2004

Summary of forensic psychology services:

Attorney Consultation (telephone), 2 hrs. @ \$150/hr.	\$ 300.00
Court time (9/7/04), 2 hrs. @\$150/hr.	300.00
Interview of defendant/time spent at	
. Polunsky Unit, 6 hrs. @\$150/hr.	600.00
Record review, 10 hrs. @, \$75/hr.	<i>75</i> 0,00

#### Travel:

Round trip Huntsville to Livingston, 8/26/04 & 8/30/04,

94 miles @, \$.35/mile

32.90

Round trip Huntsville to Austin, 9/7/04,

326 miles@ \$.35/mile

<u>114.10</u>

Total:

\$2097.00

12/3/04 Sulling

Mary Alice Conroy, Ph.D.

Diplomate in Forensic Psychology

American Board of Professional Psychology

Tax ID: 477-48-7677

# Seth W. Silverman, M.D., P.A. Board Certified in Adult, Adolescent, Addiction, and Forensic Psychiatry

September 15, 2004

Michael C. Gross 106 S. St. Mary's, Suite 260 San Antonio, TX 78205

Re: Sc	ott Panetti	Invoice: 0904-7
8/26/04	Commutation Houston-Austin-Houston	\$1,800.00
,	375 miles @ \$0.36/mile	\$135.00
	Meeting with Keith Hampton at the Federal Defender Office in Austin, TX (2.25 hours @ \$300.00/hour)	\$675.00
	Review of materials (2.25 hours @ \$300.00/hour)	\$675.00
9/1/04	Research and review of information (5.25 hours @ \$300.00/hour)	\$1,575.00
9/2/04	Research and review of information (5.5 hours @ \$300.00/hour)	\$1,650,00
9/3/04	Research and review of information (4.5 hours @ \$300.00/hour)	\$1,350.00
	Commutation Houston-Death Row, Livingston-Houston (160 miles @ \$0.36/mile)	\$57.60
•	(160 miles @ \$0.36/mile) (3 hours @ \$300.00/hour)	\$900.00

5300 Memorial Drive, Suite 512 • Houston, Texas 77007 Phone 713.528.1188 • Fax 713.522.5764 silvermanpa@aol.com

Michael C. Gross Re: Scott Panetti Page 2

9/3/04	Time spent waiting in the Polunsky Unit for Lt. Teri Hill to respond to this examiner's request that she be interviewed prior to the time that she was scheduled to testify at Mr. Panetti's competence to be executed hearing. She reported that she would agree to be interviewed if given a release by her supervisor, and only if this examiner "worked for the prosecution." Lt. Hill was then requested by this examiner to call her supervisor, Captain Miller, to relay this examiner's request that both she and Captain Miller agree to be interviewed. Thirty minutes later a message was relayed to this examiner that both parties could only be interviewed the day of the trial.	\$150.00
	Forensic psychiatric interview of Scott Panetti In the Attorney's booth in the Polunsky Unit (2.5 hours @ \$300.00/hour)	\$750.00
9/3/04	Forensic telephone interview of Ms. Panetti (.25 hours @ \$300.00/hour)	<b>\$</b> 75.00
	Forensic psychiatric interview of Kristi Couvillon, intern at The Texas Defender Group during the summer of 2004. Of note, she assisted with the preparation of Mr. Panetti's trial and visited him on two occasions.	<b>\$</b> 375.00
	Forensic telephone interview of Karen Ehrhard, Swiss girlfriend of Mr. Panetti. (1.25 hours @ \$300.00/hour)	
9/4/04	Review of information and research (.5 hours @ \$300.00/hour)	\$150.00
9/5/04	Review of information and research (.75 hours @ \$300.00/hour)	\$225.00
	Telephone conferences with defense counsel (2.5 hour @ \$300.00/hour)	\$750.00
9/6/04	Review of information (1.75 hours @ \$300.00/hour)	\$525.00

Michael C. Gross Re: Scott Panetti Page 3

9/7/04

Commutation

\$3,000.00

Houston - Austin - Houston (by car)

Testimony and time spent observing in court

(15 hours @ \$300.00/hour)

(Maximum charge-24 hours @ \$300.00/hour)

TOTAL AMOUNT DUE =

\$14.817.60

PLEASE SEND PAYMENT TO:

SETH W. SILVERMAN, M.D.

5300 MEMORIAL DR., SUITE 510

HOUSTON, TX 77007 TAX ID #76-0308036 SUSANA A. ROSIN, Ph.D. CLINICAL PSYCHOLOGIST 3730 KIRBY DR., SUITE 825 HOUSTON, TEXAS 7709B

TELEPHONE (713) 523-0000

## **STATEMENT**

September 8, 2004

Mr. Michael C. Gross Attorney at Law 106 S. St. Mary's, Suite 260 San Antonio, Texas 78205

Re: Scott Panetti

Dr. Rosin's tax ID#: 76-0293756

SERVICE	DATE	AMOUNT DUE
Review of Documents provided (6 hrs @ \$250.00)	08-26-2004	\$1500.00
Literature search at request of Mr. Keith Hampton (3 hrs @ \$250.00/hr)	08-29-2004	\$750.00
Interview with Mr. Pannetti (9 hrs. @ \$250.00/hr) Including travel time	09-01-2004	\$2,250.00
Court Appearance (10 hrs @ \$250.00/hr) Including travel time	09-07-2004	\$2,500.00
Total Amount Due:		<u>\$7,000.00</u>

417 Oak Bend, Suite 260 Lewisville, TX 75067

Mark D. Cunningham, Ph.D., ABPP

972 459 0658

Invoice submitted to: Michael C. Gross 106 S. St. Mary's Ste. 260 San Antonio TX 78205

September 10, 2004

In Reference To: Scott Louis Panetti v. Doug Dretke, No. A-04-CA-042-SS, In the U.S. District Court, Western District of Texas, Austin Division

Invoice # 10194

### Professional Services

		Rate	Amount
9/4/2004	Review of report of Drs. Parker and Armstrong, review of interview notes of Drs. Parker and Armstrong, review of capital offense reports, review of past psychiatric reports, review of recent correspondence to family and pen pals, review of TDCJ psychiatric records. (2 hours, 15 minutes)	. 240,00/hr	540 <b>.00</b>
· · · · .	Review of transcript of competency hearing, review of affidavits of standby counsel and trial observers. (2 hours, 10 minutes)	240.00/hr	520.00
9/6/2004	Retrieval and review of records. (40 minutes)	240.00/hr	. 160.00
	Review of interview notes and records, telephone conference with Keith Hampton. (1 hour, 15 minutes)	240.00/hr	300.00
9/7/2004	Prepare files and materials for travel and testimony, to airport, checkin, review of psychiatric records in route, land Austin, to federal court, conference with Keith Hampton and Michael Gross, standby for hearing, observe expert and correctional officer testimony regarding competency for execution, consult with counsel for Scott Panetti during breaks. (12 hours, 15 minutes)	240.00/hr	2,940.00
	Telephone conferences with Keith Hampton, reschedule travel for rebuttal testimony availability tomorrow. (40 minutes)	240.00/hr	160.00
	Telephone interviews of Kristi Couvillon, MSW and Shelli Schade, MSW, review of social worker interview notes with Scott Panetti. (1 hour)	240.00/hr	240.00
9/8/2004	To federal court, review of interviews and records in preparation of rebuttal testimony, conference with counsel for Mr. Panetti, observe hearing proceedings and testimony of Dr. Mary Anderson, testimony on direct, standby at noon break, resume the witness stand for cross examination, to airport, return travel to Dallas. (9 hours, 50 minutes)	240.00/hr	2,360.00

Michael C.	Gross		Page	2
		. Rate	_Am	<u>ount</u>
9/8/2004	For work done on February 3, 2004: Travel to Livingston, Texas to evaluate Scott Panetti. Interview of family members, consultation with attorneys, return travel, preparation of report. (10 hours)	240.00/hr	2,40	00.00
9/5/2004	Telephone conference with Keith Hampton, review of transcript of competency to stand trial hearing, telephone conference with Keith Hampton. (1 hour, 30 minutes)	240.'00/hr	'36 `	0.00
	For professional services rendered		\$9,98	<u>ó.00</u>
	Additional Charges:			
9/8/2004	Parking fees during travel on September 7-8, 2004 to Austin, Texas. (Receipt atta	ached)	2	2.00
	Car rental for travel on September 7-8, 2004 to Austin, Texas. (Receipt attached)		10-	4.13
	Meals for travel on September 7-8, 2004 to Austin, Texas. (Receipt attached)	•	4:	2,05
	Total costs		\$16	3.18
	Total amount of this bill	. • -	\$10,14	8.18
	Bálance due	<del>-</del>	\$10,14	3.18

admin

From: Customerservice@nationalcar.com

Sent: Wednesday, September 08, 2004 2:17 PM

To: ADMIN@MARKDCUNNINGHAM.COM

Subject: National Rental Agreement 507001567

-PANETTI

Below is the requested rental agreement receipt from National Car Rental.

Rental Agreement #: 507001567

Invoice #: 9499071 Contract #: 5007125

Renter Name: MARK D CUMNINGHAM
Renter Address: 2613 QUEEN MARGARET

417 OAKBEND DR #ST260 LEWISVILLE, TX 750676677

US

Rental Location:

Pickup Date: 07-SEP-2004

Pickup Location: AUSTIN BERGSTROM INTL ARPT

AUSTIN BERGSTROM INTL ARPT

3600 PRESIDENTIAL BLVD STE # 108

AUSTIN, TX 78719

US

Return Date: 08-SEP-2004

Return Location: AUSTIN BERGSTROM INTL ARPT

AUSTIN BERGSTROM INTL ARPT

, 3600 PRESIDENTIAL BLVD STE # 108

· AUSTIN, TX 78719

US

Vehicle Info:

Model: IMPALA

License Number: Y75YMX State/Province: TX

Vehicle Class Driven: Full Size 2/4 Door Car Auto A/C

Vehicle Class Charged: Intermediate 2/4 Door Car Auto A/C

Miles/Kms Driven: 57.00 Miles/Kms Out: 2522.00 Miles/Kms In: 2579.00

Charges:

TIME & DISTANCE 2 DAY @ 41.95 83.90 DISCOUNT -9.23

RNTL CAR FACILITY FEE 1.95 USD/DY 3.90
CONCESSION RECOUP FEE 11.11 PCT 8.76

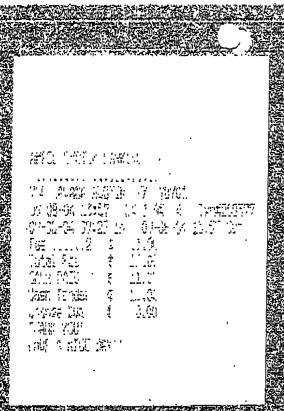
AUSTIN EVENTS CENTER PROJ 5 PCT
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Subject to audit.			

Please do not reply directly to this email. If you have a question or comment regarding your rental agreement please send it to customerservice@nationalcar.com



在6年 "九江三溪"(6) lash (sile) GREE GET IN

# NATIONAL CAR RENTAL

RA 507001567 Rental 07-SEP-2004 08:10 AM AUSTIN BERGSTROM INTL ARPT Return 08-SEP-2004 02:29 PM AUSTIN BERGSTROM INTL ARPT

MARK D CUNNINGHAM Vehicle # 59133113 IMPALA Class Oriven FCAR License# Y75YMX M/Kms Driven 57 H/Kms Out 2522 M/Kms In 2579 Class Charged ICAR State/Province TX

Charges	No Unit	Price	Amount
T&M	2 Days	41.95	83.90*
UNLIM H/KH			0,00>
DSCNT T&M :			-9.23*
RENTAL CAR	FACILITY FEE		3.90
CONCESSION	RECOUP FEE.		8.76*
AUSTIN EVEN	ITS CNTR PROJ		3.73
PROP. TAX LI	C/TITLE FEE		4.18*
MTR VEH RNT	TAX @10.000	%	8.76
FFTXRSU			0.13
			•

Total Charges . USD 104.13

Paid By AMEX 4004 -104.13 Amount Due USD 0.00

\* Taxable Items Subject to Audit
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Frequent Flyer 2430KXB Credit to AMERICAN
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Frequent Flier miles earned

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(512) 441-6100

SERVER: ANNE

TABLE: 42

CHECK #A2000 DATE: 09-07-04

TIME: 05:44PM

Merchant # 1422474973

Cardmember: MARK D CUNNINGHAM

. \*\*/\*\* Exp

55.21 Purchases . .\$

Total . . . . \$\_\_\_

Guest Copy

#Auth 573032

\$30.00

Meals Total \$47.05

#### VESPAIO

Check # 2000 Date: 09-07-04

Table # 42

Guests: 3

Time: 06:18PM

1 MARE GRIGLIATA VERDURE

28.00 17.00

THURGAU GL MULLER SUB TOTAL:

6.50 51.50 3.71

DUE :

TAX: 55.21

Thank you for dining with us!

ANNE

\*\* TGI FRIDAY'S #807 \*\*

·AMERICAN BAR

DFW AIRPORT GATE C30

Date:

Sep07'04 06:24AM

Card Type: AMEX .

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Exp Date: Auth Code; 09/07 507386

Check

2339

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TIP

TOTAL

14.05

\*\* GUEST COPY \*\*

Mark D. Cunningham, Ph.D., ABPP

417 Oak Bend, Suite 260 Lewisville, TX 75067

972 459 0658

Invoice submitted to: Keith Hampton 1103 Nueces Street Austin TX 78701

FYI only

September 09, 2004

In Reference To: Scott Louis Panetti v. Doug Dretke, No. A-04-CA-042-SS, In the U.S. District Court, Western District of Texas, Austin Division

Invoice #10195

Additional Charges:

		Amount
9/8/2004	Original airticket for travel on September 7, 2004 to Austin, Texas. (Receipt attached)	210.20
	Airticket for later return flight on September 8, 2004 from Austin, Texas. (Receipt attached)	325.20
	Total costs	\$535.40
	Balance due	\$535.40

PASSENGER RECEIPT

American Airlines'

PASSENGER NAME

CUNNINGHAM/MARK

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27AUG04 RECORD LDCATOR

DFW

LMBHWH

AUS AA 1071 L 07Sep L26D

DFW AA 1910 L 07Sep LZ6D

Get the CITI GOLD AADVANTAGE WORLD MASTERCARD and earn 5000 miles! Apply Today! Call 1-888-592-5521

DFW AA AUSER 37L280 AA DFWSB 37L280 176.74 END ZPDF

VALID FOR TRAVEL

FARE TAX

TAX

176.74USD 13.26US

6.20ZP

TAX 14.00XT 210.20USD TOTAL

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DUPLICATE

SELF-SERVICE OPN 2841138

Original airticket: \$210,20

# **AmericanAirlines**<sup>®</sup>

RECURD PASSENGER NAME FREQUENT FLYER # LOCATOR **CUNNINGHAM/MARK** 2430KX8 EXP LMBHWH FRD# -FLIGHT CLASS DATE DEPARTS DALLAS/ FORT WORTH 1071 D7SEP 0704A

AUSTIN

BOARDING TIME 0634A

SEAT

FIRST

ELECTRONIC

0012133049594

### **American Airlines**

BOARDING PASS

CUNNINGHAM/MARK

DALLAS/ FORT WORTH TD:

AUSTIN

FLISHT 1071

SEAT

DATE 075.EP

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DEPARTS 0704A

EXHIBIT D

08SEP04

### ASSENGER RECEIPT **AmericanAirlines**

**American Airlines** 

PASSENGER NAME

CUNNINGHAM/MARK

AUS LMBHWH

DFW AA 1182 X OBSep K26D

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Get the CITI GOLD AADVANTAGE WORLD MASTERCARD and earn 5000 miles! Apply Today! Call 1-888-592-5521

FARE

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**EXHIBIT D** 

### **AmericanAirlines**

BOARDING PASS

CUNNINGHAM/MARK

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TO:

DALLAS/ FORT WORTH

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417 Oak Bend, Suit				972-459	L0858	•
Lewisville, TX 7600 Claimant's certification i		2/3/09	Tolephone	TO 9/8/5		<del></del>
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Signature of	allie The		<u> </u>	Date	17204	·
SECURICATION OF ATTORNEY I	beraby certify that the services were a	ndered for his s	Lro.	Date		
	APPROVED FOR	PAYMENT	- COURT U	SE ONLY		
9: TOTAL COMPENSATION	20. Travel expenses	21. OTHER	Bapenses .	22. TOTAL AMO	UNT APPROVEDIC	ertifiëd j
. D Hines the cost ferriveling expenses;  [ In the interest of justice the Court fix	of these percent does not exceed \$300 that timely procure man of these are	, otprior authori	Sation was objeinni; Buld not a wini prior s	OR . nihorization, even (kough th	a oust (excluding expi	ince) exceeds
		•			•	
	siding Judicial Officer		Date		Judge/Mag. Jud	ge Code
	s. Travel expenses	26. OTHER		27. TOTAL AMO	• • • •	,
FOR EEPR ESENTATIONS COMMENC A. Total compensation and expense pays	ED AND AFPELLATE PROCEEDING AND UNION OF THE PROCEEDING AND APPROPRIES.	US IN WHICH	AN APPEAL 18 PER L DEVENOUE) for investi	FECTED ON OR AFTER A	PRIL 24, 1996,	
representationis 2	SEPROSES) IN SECURE Of the Statutery three					<b> </b> -
						<u> </u>
<ul> <li>Signature of Chief Judge.</li> </ul>	Court of Appeals (of Delegate)	-	. Dete		Judge Cod	

To: Nancy Fay

From: Monica R. Washington Date: JAN. 4, 2005

RE: 04-70045 - Panetti

Noc# 50

Doc# 48 will follow under Separate Cover.